



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,848	06/15/2001	F. David Stallworth	BS01-026	6723

28970 7590 09/07/2005

PILLSBURY WINTHROP SHAW PITTMAN LLP  
1650 TYSONS BOULEVARD  
MCLEAN, VA 22102

EXAMINER

SHELEHEDA, JAMES R

ART UNIT PAPER NUMBER

2617

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/880,848

Applicant(s)

STALLWORTH, F. DAVID

Examiner

James Sheleheda

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 10, 11, 17-20 and 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Hylton (5,613,190).

As to claim 1, Hylton discloses a system for delivering to a subscriber a first signal that is subject to a right-of-way franchise fee (video; column 3, lines 35-43), the system comprising:

(a) a central office located on a first side of a right-of-way (telephone signals, video signals; Fig. 2A; 1333, 1400; column 16, line 60-column 17, line 8 and column 14, lines 31-56);

(b) a multiplexer in communication with the central office (Fig. 2A; HDT, 1180), wherein the central office transmits a second signal to the multiplexer (Fig. 2A; column 16, line 60-column 17, line 8 and column 14, lines 31-56), and

wherein the multiplexer is located on a second side of the right-of-way opposite the first side such that the second signal must cross the right-of-way to reach the multiplexer (see Fig. 2A); and

(c) a wireless receiver located on the second side of the right-of-way (1101; column 9, lines 55-57),

wherein the wireless receiver receives the first signals and transmits the first signal to the multiplexer (video signals; Fig. 2A; column 9, lines 59-65 and column 11, lines 35-39),

wherein the multiplexer combines the second signal and the first signal into a combined signal for routing to the subscriber (combining the signals at the HDT for distribution; Fig. 2A; column 11, lines 35-65, column 16, line 60-column 17, line 9 and column 14, lines 31-56), and

wherein the subscriber is located on the second side of the right-of-way (see Fig. 2A).

As to claim 2, Hylton discloses an optical network unit in communication with the multiplexer (see Figs. 2A-B),

wherein the optical network unit receives the combined signal from the multiplexer (Fig. 2B; column 12, lines 18-27), separates the combined signal into the first signal and the second signal (column 12, lines 18-27), and routes the first signal and the second signal to the subscriber (Fig. 2B; column 12, lines 18-35).

As to claim 3, Hylton discloses wherein the first signal is a video signal (video signals; Fig. 2A; column 9, lines 59-65 and column 11, lines 35-39), and the second

Art Unit: 2617

signal is a telephony signal (telephone signals; Fig. 2A; column 16, line 60-column 17, line 8).

As to claim 4, Hylton discloses wherein the first signal is a data signal (video data; Fig. 2A; column 9, lines 59-65 and column 11, lines 35-39), and the second signal is a video signal (video signals; Fig. 2A; column 14, lines 23-55).

As to claim 5, Hylton discloses wherein the wireless receiver receives the first signal as an electronic signal (column 9, lines 49-65) and converts the electronic signal to a fiber optic signal to deliver the first signal through a fiber optic strand to the multiplexer (Fig. 2A; column 10, lines 39-65).

As to claim 6, Hylton discloses wherein the wireless receiver is a radio receiver (column 9, lines 49-55).

As to claim 10, Hylton discloses wherein the right-of-way franchise fee is imposed by a local governing authority (wherein a right-of-way franchise fee is a government imposed fee).

As to claim 11, Hylton discloses a system for delivering to a subscriber a first signal that is subject to a right-of-way franchise fee (video; column 3, lines 35-43), wherein the method comprises the step of:

(a) transmitting a second signal from a first side of the right of way, through the right of way, to a second side of the right of way, wherein the first side is opposite the second side (telephone signals, video signals; Fig. 2A; 1333, 1400; column 16, line 60-column 17, line 8 and column 14, lines 31-56);

(b) receiving via a wireless communication the first signal on the second side of the right-of-way such that the first signal does not pass through the right-of-way (1101; column 9, lines 55-57);

(c) combining the first signal and the second signal into a combined signal on the second side of the right of way (combining the signals at the HDT for distribution; Fig. 2A; column 11, lines 35-65, column 16, line 60-column 17, line 9 and column 14, lines 31-56);

(d) routing the combined signal in the direction of the subscriber (to an ONU; Fig. 2B; column 12, lines 18-27), wherein the subscriber is on the second side of the right-of-way (see Figs. 2A-B);

(e) separating the combined signal into the first signal and the second signal (column 12, lines 18-27); and

(f) routing the first signal and the second signal to the subscriber (Fig. 2B; column 12, lines 18-35).

As to claim 17, Hylton discloses wherein the step of receiving the first signal comprises receiving the first signal as an electronic signal (column 9, lines 49-65) and

Art Unit: 2617

converting the first signal from the electronic signal to a fiber optic signal (Fig. 2A; column 10, lines 39-65).

As to claim 18, Hylton discloses wherein the first signal is a video signal (video signals; Fig. 2A; column 9, lines 59-65 and column 11, lines 35-39), and the second signal is a telephony signal (telephone signals; Fig. 2A; column 16, line 60-column 17, line 8).

As to claim 19, Hylton discloses wherein the first signal is a data signal (video data; Fig. 2A; column 9, lines 59-65 and column 11, lines 35-39), and the second signal is a video signal (video signals; Fig. 2A; column 14, lines 23-55).

As to claim 20, Hylton discloses a system for delivering to a subscriber a first signal that is subject to right-of-way franchise fees (video; column 3, lines 35-43), wherein the method comprises the step of:

(a) transmitting a second signal from a central office (Fig. 2A; 1333, 1400) through a right of way to a multiplexer (Fig. 2A; HDT, 1180; column 16, line 60-column 17, line 8 and column 14, lines 31-56), wherein the central office is located on a first side of the right of way and the multiplexer is located on a second side of the right of way opposite the first side (telephone signals, video signals; Fig. 2A; 1333, 1400; column 16, line 60-column 17, line 8 and column 14, lines 31-56);

- (b) receiving the first signal at a wireless receiver (1101; column 9, lines 55-57) located on the second side of the right-of-way (column 9, lines 55-57);
- (c) transmitting the first signal from the wireless receiver to the multiplexer (video signals; Fig. 2A; column 9, lines 59-65 and column 11, lines 35-39) without crossing the right of way (Fig. 2A);
- (d) combining the first signal and the second signal into a combined signal at the multiplexer (combining the signals at the HDT for distribution; Fig. 2A; column 11, lines 35-65, column 16, line 60-column 17, line 9 and column 14, lines 31-56);
- (e) routing the combined signal from the multiplexer to a local terminal (to an ONU; Fig. 2B; column 12, lines 18-27) that is located on the second side of the right of way (see Figs. 2A-B)
- (f) separating the combined signal into the first signal and the second signal at the local terminal (column 12, lines 18-27); and
- (f) routing the first signal and the second signal from the local terminal to the subscriber (Fig. 2B; column 12, lines 18-35), wherein the subscriber is located on the second side of the right-of-way (see Figs. 2A-B).

As to claim 24, Hylton discloses wherein the first signal is a video signal (video signals; Fig. 2A; column 9, lines 59-65 and column 11, lines 35-39), and the second signal is a telephony signal (telephone signals; Fig. 2A; column 16, line 60-column 17, line 8).



As to claim 25, Hylton discloses wherein the first signal is a data signal (video data; Fig. 2A; column 9, lines 59-65 and column 11, lines 35-39), and the second signal is a video signal (video signals; Fig. 2A; column 14, lines 23-55).

As to claim 26, Hylton discloses a system for delivering to a subscriber a first signal that is subject to right-of-way franchise fees (video; column 3, lines 35-43), wherein the method comprises the step of:

(a) means for transmitting (Fig. 2A; 1333, 1400) a second signal from a first side of the right of way, through the right of way, to a second side of the right of way, wherein the first side is opposite the second side (telephone signals, video signals; column 16, line 60-column 17, line 8 and column 14, lines 31-56);

(b) means for receiving (1101) via a wireless communication the first signal on the second side of the right-of-way such that the first signal does not pass through the right-of-way (column 9, lines 55-57);

(c) means for combining (HDT, Fig. 2A) the first signal and the second signal into a combined signal on the second side of the right of way (combining the signals at the HDT for distribution; column 11, lines 35-65, column 16, line 60-column 17, line 9 and column 14, lines 31-56);

(d) means for routing (HDT; Fig. 2A) the combined signal in the direction of the subscriber (to an ONU; Figs. 2A-B; column 12, lines 18-27), wherein the subscriber is on the second side of the right-of-way (see Figs. 2A-B);

(e) means for routing (ONU; Fig. 2B) the combined signal into the first signal and the second signal (column 12, lines 18-27); and

(f) means for routing (ONU) the first signal and the second signal to the subscriber (Fig. 2B; column 12, lines 18-35).

As to claim 27, Hylton discloses wherein the first signal is a video signal (video signals; Fig. 2A; column 9, lines 59-65 and column 11, lines 35-39), and the second signal is a telephony signal (telephone signals; Fig. 2A; column 16, line 60-column 17, line 8).

As to claim 28, Hylton discloses wherein the first signal is a data signal (video data; Fig. 2A; column 9, lines 59-65 and column 11, lines 35-39), and the second signal is a video signal (video signals; Fig. 2A; column 14, lines 23-55).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hylton.

As to claims 12 and 21, while Hylton discloses a wireless communication and wherein the step of receiving the first signal comprises receiving the first signal with a receiver located on the second right of way (Fig. 2A) and converting the first signal from an electronic signal to a fiber optic signal (column 9, lines 49-65 and column 10, lines 39-65), he fails to specifically disclose a satellite receiver.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize a satellite receiver, which has greater range and quality than typical off-air television broadcasts, to receive wireless signals for the typical benefit of utilizing the long range transmission capabilities of a satellite system.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hylton's system to include a satellite receiver for the typical benefit of utilizing the long range transmission capabilities of a satellite system.

5. Claims 7-9, 13-16, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hylton as applied to claims 1, 11 and 20 above, and further in view of Applicant's admitted prior art.

As to claims 7 and 22, while Hylton discloses a multiplexer to combine optical video and telephone signals, he fails to specifically disclose a wave division multiplexer.

Applicant's conceded that the prior art discloses the use of a wave division multiplexer (see specification at page 5, paragraph 13) when combining optical video and telephone signals for distribution (see specification at page 5, paragraph 13) to transmit the video and telephone signals over different frequencies (see specification at

page 5, paragraph 13). This allows the telephone and video signals to be distinguished from one another (paragraph 13).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hylton's system to include a wave division multiplexer, as taught by applicant's conceded prior art, for the benefit of distinguishing between optical video and telephone signals being transmitted together.

As to claim 8, while Hylton discloses a multiplexer to combine optical video and telephone signals, he fails to specifically disclose wherein the first signal is transmitted over a first wavelength and wherein the second signal is transmitted over a second wavelength that is different then from the first wavelength.

Applicant's conceded that the prior art discloses the use of a wave division multiplexer (see specification at page 5, paragraph 13) when combining optical video and telephone signals for distribution (see specification at page 5, paragraph 13) to transmit the video and telephone signals over different frequencies (see specification at page 5, paragraph 13). This allows the telephone and video signals to be distinguished from one another (paragraph 13).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hylton's system to include wherein the first signal is transmitted over a first wavelength and wherein the second signal is transmitted over a second wavelength that is different then from the first wavelength, as taught by

Art Unit: 2617

applicant's conceded prior art, for the benefit of distinguishing between optical video and telephone signals being transmitted together.

As to claim 9, Hylton and Applicant's admitted prior art disclose wherein the first signal is a video signal transmitted over a 1550-nanometer wavelength (see Applicant's specification at page 5, paragraph 13) and the second signal is a telephony signal transmitted over a 1310-nanometer wavelength (see Applicant's specification at page 5, paragraph 13).

As to claim 13, while Hylton discloses wherein the step of combining the first and second signal comprises receiving the first signal and the second signal at a multiplexer and multiplexing the first signal with the second signal using the multiplexer, he fails to specifically disclose a wave division multiplexer.

Applicant's conceded that the prior art discloses the use of a wave division multiplexer (see specification at page 5, paragraph 13) when combining optical video and telephone signals for distribution (see specification at page 5, paragraph 13) to transmit the video and telephone signals over different frequencies (see specification at page 5, paragraph 13). This allows the telephone and video signals to be distinguished from one another (paragraph 13).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hylton's system to include a wave division multiplexer,

as taught by applicant's conceded prior art, for the benefit of distinguishing between optical video and telephone signals being transmitted together.

As to claim 14, Hylton and Applicant's admitted prior art disclose wherein the step of routing the combined signal comprises routing the combined signal from the wave division multiplexer to a splitter that is in communication with the subscriber (ONU splitting the signal for multiple subscribers; see Hylton at Fig. 2B and column 12, lines 18-36).

As to claim 16, Hylton and Applicant's admitted prior art disclose wherein the splitter includes a wave division de-multiplexer (required to separate the wave division multiplexed signals; see Applicant's specification at paragraphs 13-14), and the step of separating the combined signal comprises separating the combined signal with the wave division de-multiplexer (required to separate the wave division multiplexed signals; see Applicant's specification at paragraphs 13-14).

As to claims 15 and 23, while Hylton discloses wherein the step of separating the combined signals comprises transmitting the combined signal to a de-multiplexer that separates the combined signal into the first signal and the second signal (Fig. 2B; column 12, lines 18-36), he fails to specifically disclose a wave division de-multiplexer.

Applicant's conceded that the prior art discloses the use of a wave division multiplexer (see specification at page 5, paragraph 13) when combining optical video

and telephone signals for distribution (see specification at page 5, paragraph 13) to transmit the video and telephone signals over different frequencies (see specification at page 5, paragraph 13) to a wave division de-multiplexer (required to separate the wave division multiplexed signals; see Applicant's specification at paragraphs 13-14). This allows the telephone and video signals to be distinguished from one another (paragraph 13).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hylton's system to include a wave division de-multiplexer, as taught by applicant's conceded prior art, for the benefit of distinguishing between optical video and telephone signals being transmitted together.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kimbrough (US 2002/0063924 A1) disclosing multiplexing telephony and video signals over an optical network (Fig. 1).

7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Art Unit: 2617

## Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on \_\_\_\_\_.  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

Signature: \_\_\_\_\_

Registration Number: \_\_\_\_\_

## Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. ( ) \_\_\_\_\_ - \_\_\_\_\_ on \_\_\_\_\_.  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

Signature: \_\_\_\_\_

Registration Number: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda  
Patent Examiner  
Art Unit 2617

JS



VIVEK SRIVASTAVA  
PRIMARY EXAMINER